



FEMA

December 18, 2018

SENT VIA E-MAIL TO: foia@americanoversight.org

Austin R. Evers
Executive Director
American Oversight
1030 15th Street, NW
Washington, DC 20005

Re: FEMA FOIA Case Number 2018-FEFO-00688

Dear Mr. Evers:

This is the final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA), dated April 19, 2018 and received in this office on April 19, 2018. You requested a copy of all bids submitted for contract solicitation number HSFE70-17-R-MARIAMEALS.

A search of FEMA's Office of the Chief Procurement Officer (OCPO) for documents responsive to your request produced a total of 89 pages. Of those pages, I have determined that one (1) page is partially releasable, and 88 pages are withheld in their entirety pursuant to Title 5 U.S.C. § 552 (b)(3) and (b)(6) FOIA Exemptions 3 and 6.

FOIA Exemption 3 protects information specifically exempted from disclosure by another statute, if the statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) established particular criteria for withholding or refers to particular types of matters to be withheld.

- **Proposals**
Section 253b(m) of Title 41, United States Code, prohibits the release of any competitive proposal under the FOIA, except for those portions of the proposal set forth or incorporated by reference in a government contract. Since the statute leaves the agency with no discretion, we determined that all sections of the contractor proposal which were required to be submitted, and which were not incorporated into the contract, must be withheld under subsection (b)(3) of the FOIA.
- **Contractor Bid, Proposal or Source Selection Information**
Section 423(a)(1) of Title 41, United States Code, prohibits anyone acting on behalf of the United States who has access to procurement information from knowingly releasing contractor bid or proposal information or source selection

information before the award of the related Federal agency procurement contract. Since the statute leaves the agency with no discretion, we have determined that all sections of the contractor proposal which were required to be submitted, and which were not incorporated into the contract, must be withheld under subsection (b)(3) of the FOIA.

FOIA Exemption 6 exempts from disclosure of personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

You have the right to appeal if you disagree with FEMA's response. The procedure for administrative appeals is outlined in the DHS regulations at 6 C.F.R. § 5.8. In the event you wish to submit an appeal, we encourage you to both state the reason(s) you believe FEMA's initial determination on your FOIA request was erroneous in your correspondence, and include a copy of this letter with your appeal. Should you wish to do so, you must send your appeal within 90 days from the date of this letter to fema-foia@fema.dhs.gov, or alternatively, via mail at the following address:

FEMA
Office of the Chief Administrative Officer
Information Management Division (FOIA Appeals)
500 C Street, SW, Seventh Floor, Mail Stop 3172
Washington, D.C. 20472-3172

As part of the 2007 amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road- OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: 202-741-5770/Toll-free: 1-877-684-6448
Facsimile: 202-741-5769

Provisions of the FOIA allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$25 minimum, there is no charge.

If you need any further assistance or would like to discuss any aspect of your request, please contact us and refer to FOIA case number **2018-FEFO-00688**. You may send an e-mail to fema-foia@fema.dhs.gov

foia@fema.dhs.gov, call (202) 646-3323, or you may contact our FOIA Public Liaison in the same manner.

Sincerely,

John Maniha
Government Information Specialist
Disclosure Branch
Information Management Division
Mission Support

Enclosure(s): Responsive Record (one (1) page)

9/23/2017	9/25/2017	9/26/2017	9/28/2017	9/29/2017	10/1/	10/2/2017	UNKNOWN
aguieus	hanna	FILCOR	TRIBUTE	(b)(6)			
	aguieus	SOPAKCO					(b)(6)
	AWD	CHEFMINMEALS					
		(b)(6)					